

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
CASE NO. 4:20-CV-00071-M

DAVID RICHARDSON, )  
Plaintiff, )  
 )  
v. )  
 )  
KILOLO KIJAKAZI,<sup>1</sup> )  
Acting Commissioner of Social Security )  
Administration, )  
Defendant. )

**ORDER**

This matter is before the court on the Memorandum and Recommendation (hereinafter “M&R”) of United States Magistrate Judge Kimberly A. Swank [DE-23] to grant the Plaintiff’s Motion for Judgment on the Pleadings [DE-18], deny the Defendant’s Motion for Judgment on the Pleadings [DE-20], and remand the case to the Commissioner for further proceedings consistent with the M&R. Neither party filed objections to the M&R and the deadline for doing so has expired. The matter is ripe for ruling.

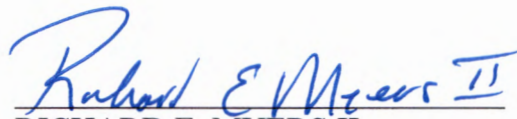
“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotations omitted); *see* 28 U.S.C. § 636(b). Absent timely objection, “a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond*, 416 F.3d at 315 (citation and quotations omitted).

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<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi is automatically substituted, in place of Andrew M. Saul, as the Defendant in this action. No further action need be taken to continue this suit. 42 U.S.C. § 405(g).

The court has reviewed the M&R and the record in this case and is satisfied that there is no clear error on the face of the record. Accordingly, the court ADOPTS the M&R [DE-23] and for the reasons state therein GRANTS the Plaintiff's Motion for Judgment on the Pleadings [DE-18], DENIES the Defendant's Motion for Judgment on the Pleadings [DE-20], and REMANDS the case to the Commissioner for further proceedings consistent with the M&R.

SO ORDERED this the 6<sup>th</sup> day of August, 2021.



RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE